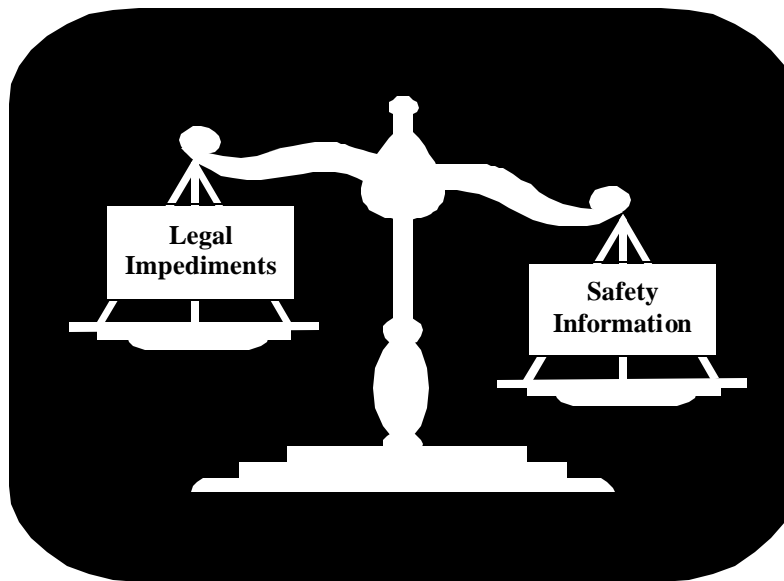


*Global Aviation Information Network (GAIN)*



**Reducing Legal Impediments to  
Collecting & Sharing Safety Information**



*Prepared by:  
GAIN Government Support Team (GST)*

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## **Foreword**

Legal impediments such as civil litigation, regulatory sanctions, criminal proceedings and public disclosure are major deterrents to improving aviation safety through enhanced safety information collection and sharing. Reporters of safety information are reluctant to disclose anything other than what happened, fearing that any additional information, addressing why an accident, incident or safety event occurred, will be used against them, their organization or airline. One example of an effort to encourage collection of the information needed to effectively correct safety deficiencies is Chapter 3 of International Civil Aviation Organization (ICAO) Annex 13 which states “the sole objective of the investigation of an accident or incident shall be the prevention of accidents and incidents. It is not the purpose of this activity to apportion blame or liability.”

The Global Aviation Information Network (GAIN) Government Support Team (GST) was created in October 2000 for the primary purpose of helping government and industry reduce legal and organizational barriers that discourage the collection and sharing of safety information. During 2001 the GST addressed the legal impediments. GST member organizations representing civil aviation authorities and accident investigation boards from a number of countries provided a status report on the legal impediments in their countries including existing solutions. In addition, GST members described various strategies that are being implemented for reducing legal impediments to collecting and sharing safety information. This report contains a summary of this information. The GST intends to continue gathering information on legal impediments and will prepare periodic updates to the report.

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## **1.0 Introduction**

### **1.1 Purpose of Document**

The purpose of this report is to provide information on the review of legal impediments to collecting and sharing safety information that exist in a number of countries around the world. Also described are various strategies that are being implemented for reducing these legal impediments. The GAIN Government Support Team (GST) hopes that this report will help governments to be more informed about legal impediments and become more effective in establishing and maintaining a non-punitive environment for the collection and sharing of information to improve aviation safety.

### **1.2 GAIN Overview**

GAIN is an industry and government initiative to promote and facilitate the voluntary collection and sharing of safety information by and among users in the international aviation community to improve safety. GAIN was first proposed by the Federal Aviation Administration (FAA) in 1996, but has now evolved into an international industry-wide endeavor that involves the participation of professionals from airlines, employee groups, manufacturers, major equipment suppliers and vendors, governments and other aviation organizations. Four world conferences have been held since 1996 to promote the GAIN concept and share products with the aviation community to improve safety. Nearly 600 aviation safety professionals from 37 countries have participated in these conferences.

The GAIN organization consists of an industry-led Steering Committee, three working groups, a Government Support Team and Program Office. The GAIN Steering Committee is composed of industry stakeholders that set high-level GAIN policy and guide the working groups and Program Office. The working groups are interdisciplinary industry/government teams that work GAIN issues within the charters established by the Steering Committee. The three working groups are: Working Group A: Aviation Operator Safety Practices, Working Group B: Analytical Methods and Tools, and Working Group C: Global Information Sharing Systems. The Government Support Team consists of representatives from government organizations that work together to promote and facilitate GAIN in their respective countries and regions. The Program Office provides technical and administrative support to the Steering Committee, working groups, and Government Support Team.

### **1.3 GAIN Government Support Team (GST)**

The establishment of the GAIN GST was first proposed at the Fourth GAIN World Conference in Paris, June 2000. Based on the overwhelming support from conference attendees, the GST was established by the GAIN Steering Committee in cooperation with the FAA in October 2000. The group initially consisted of representatives of civil aviation authorities and accident investigation boards from seven countries that have been proactive in supporting GAIN and aviation safety over the years, as well as two multi-

governmental organizations, the International Civil Aviation Organizations (ICAO) and European Joint Aviation Authorities (JAA). A representative from the European Commission (EC) and the Nordic Working Group (NWG) were subsequently added to the group.

The GAIN Steering Committee and GST members agreed that the objective of the GST is to foster GAIN goals and reduce impediments to sharing. Three focus areas supporting this objective are as follows:

- Promote and facilitate the voluntary collection and sharing of safety information within and among airlines, air traffic organizations, manufacturers, employee groups, government entities, and others in the worldwide aviation community;
- Help reduce legal and organizational barriers that discourage the collection and sharing of safety information; and
- Encourage government organizations to provide technical and administrative resources to support the development and implementation of GAIN.

This report was prepared specifically to address the second focus area.

## **1.4 Review of Legal Impediments**

The GST identified four legal impediments to collecting and sharing safety information. These are listed below along with definitions that were developed by the GST.

- **Civil Litigation**. Concern that the information will increase exposure to monetary liability in civil accident litigation.
- **Regulatory Sanctions**. Concern that the information will lead to enforcement proceedings by government regulatory authorities for violations of aviation safety laws and regulations.
- **Criminal Proceedings**. Concern that the information will be used to pursue criminal fines and/or incarceration.
- **Public Disclosure**. Concern that the information will be disclosed to the public, in the media or otherwise, and used unfairly, e.g., out of context, to the disadvantage of the provider of the information.

In order to understand the legal environment relative to the protection of reporters of safety information across GST member countries, each country was requested to submit information on each of the above impediments with an emphasis on collection and sharing of incident versus accident information. For each impediment, GST members were asked to provide a response to the question, “How does the impediment prevent your government from obtaining more useful information from existing safety



information collection systems.” Countries also provided information on collection systems affected by the impediment and a high-level status of the impediment including some existing solutions. The individual submissions are shown in Appendix A and are summarized in sections 2 through 5 of this report. Section 6 of the report includes strategies that are being implemented by some GST member organizations for reducing the legal impediments. Appendix B contains a listing of the documents pertaining to legal impediments that are referenced in this report.

It should be noted that, although an example of an existing solution (Government Act, Special Database, etc.) may be listed under a particular legal impediment, it may have applications to other impediments and not always be listed in both places. Also, sections 2-5 of the report and Appendix “A” address each legal impediment separately. This is not meant to imply that there are clear distinctions without any overlap between them. Lastly, a protection from a legal impediment may not necessarily mean an *ultimate* protection from that legal impediment. For example, the recently enacted “Protection of Voluntarily Submitted Information” Rule (Part 193) in the United States protects voluntarily submitted information in a formally approved FAA program from public disclosure. However, a court ordered subpoena might force the FAA to release the information.

## **2.0 Civil Litigation**

The threat of civil litigation tends to deter a provider from submitting safety information that may be discoverable in litigation and possibly used against them in a civil action. Provided below is an overview of the status of this impediment within GST member countries and existing solutions.

### **2.1 Overview of Status**

Currently, all GST countries have no ultimate protection against civil litigation. Canada provides some protection for voluntarily submitted information. In relation to disclosure of information by the Australian Transport Safety Bureau (ATSB), Australia’s Air Navigation Act, sections 19HC and 19HF, attempts to protect safety information including Cockpit Voice Recordings (CVR), but this protection is subject to certain conditions. The impact of this impediment varies among GST countries from not currently being a major deterrent (Australia, New Zealand, United Kingdom) to being a significant deterrent (U.S. & Canada) as described below

A few countries (United Kingdom and France) pointed out that, unlike accidents, incident reports tend to have very little monetary liability therefore making them less prone to civil litigation. Also, the United Kingdom Civil Aviation Authority (CAA) stated that for years they have had a good safety reporting culture where reporters feel confident that their information will be used appropriately, implying a certain level of trust that minimizes the likelihood of civil litigation. It should be noted some countries (Australia and New Zealand), where civil litigation is not currently a major deterrent, are concerned

that their societies are moving toward becoming more litigious. Therefore, the threat of civil litigation may, in the future, turn into a major deterrent to reporting safety information.

The U.S. is an example of a society that has become increasingly litigious making the threat of civil litigation a major deterrent to reporting safety information. Although Canada provides some protection against civil litigation, it is not enough to be considered a significant deterrent.

## **2.2 Existing Solutions**

Existing solutions in GST countries that provide some protection against civil litigation for submitted safety information fall into two categories, Government Acts and Special Databases. Some example solutions within each category are as follows:

### **Government Acts**

- New Zealand's New Part 3 to the Transport Accident Investigation Commission (TAIC) Act (see reference in Appendix B) was amended in 1999 to specifically protect certain information from being used against an aircrew in a court of law. This was done to promote a better flow of information to the Commission's investigators and make the job a whole lot simpler and more effective. To date this seems to be the case. In the amended Act, there are still some cases where the cockpit voice recorder can be used for civil litigation, but in general, the aircrew, who provide the bulk of information during an investigation, do not seem to be concerned with this. Statements made to the Commission, including submissions made on draft reports, can only be used by the Commission for the purpose of its investigation. The Commission is not permitted by law to release such information to any other party without the consent of those persons who made the statement or submission. This has resulted in a better flow of information to the investigators, and more frank submissions to the Commission on draft reports with no fear of those statements or submissions being made available for subsequent civil litigation.
- The act which established the Canadian Transportation Accident Investigation and Safety Board (CTAISB) known as the Transportation Safety Board (TSB) Act (see reference in Appendix B) has provisions that prevent witness statements from being used against the person making the statements in legal proceedings.
- Australia's Air Navigation Act (see reference in Appendix B), subject to certain conditions, protects safety information from disclosure and, therefore, civil litigation. But, if the appropriate court is satisfied that the public interest in the disclosure or production of the air safety record outweighs the adverse domestic and international impact such disclosure or production may have on the investigation to which the record relates or to any future investigations, the court must order such disclosure. Therefore, there is no ultimate protection against civil litigation.

## **Special Databases**

- Canada's special database SECURITAS (see reference in Appendix B) is a voluntary confidential reporting program with statutory protection. The TSB regulations prohibit the release of any information that could reasonably be expected to reveal a confidential reporter's identity without the reporter's written authorization.

## **3.0 Regulatory Sanctions**

The threat of regulatory sanctions tends to deter a provider from submitting complete and factual safety information that may be used against them by government regulatory authorities for violations of aviation safety laws and regulations. Provided below is an overview of the status of this impediment within GST member countries and existing solutions.

### **3.1 Overview of Status**

Currently, all GST countries except New Zealand indicate there is no protection from regulatory sanctions regarding mandatory submitted information. In New Zealand, there is some protection in that information received under the mandatory system cannot be used for prosecution action except in special circumstances, such as when false information is supplied or when "the information reveals an act or omission that caused unnecessary danger to any other person or to any property."

All countries protect all or some voluntarily submitted information from regulatory sanctions. However, in New Zealand there are currently no voluntary reporting systems, because all aircraft accidents and all serious incidents must be reported. Three countries (United States, United Kingdom, and Japan) protect voluntarily submitted information from regulatory sanctions. In Canada and France some voluntarily submitted information is protected from regulatory sanctions and some is not. In Australia, voluntarily submitted information is not protected from regulatory sanctions, except for special programs (Note: There are currently no special programs in Australia).

The French Direction Generale de L'Aviation Civile (DGAC) indicated that according to their regulations, pilots and operators have to report incidents. They noted that in practice, the number of reported technical incidents, mainly linked with airworthiness, is far greater than the number of reported operational incidents, mainly related to human error. The United Kingdom (CAA) pointed out that the problems regarding the threat of regulatory sanctions between reporters and governments are compounded by fear of reprisals from their employer.

Australia and New Zealand have each developed an approach to encourage accurate reporting. The Australians indicate that there will always be some reluctance to report incidents etc. for fear of enforcement proceedings. Therefore, the Civil Aviation Safety Authority (CASA) policy is to have an approach to enforcement that is uniform,

consistent, fair and appropriate as stated in Australia's Corporate Plan (see reference in Appendix B). Reporting of violations is encouraged and enforcement tempered so as to foster this approach. The New Zealanders state that there is some reluctance to report where regulatory action may result, but the "Just Culture" approach (see reference in Appendix B) is emerging as a way of creating an environment that encourages open reporting of errors and mistakes. They indicate, however, that there is still some work to do in this field. Many incidents are being downplayed when reported so as to not attract a full investigation that may, in the course of determining all contributing factors, identify omissions on the part of the operator and/or aircrew.

Because of the threat of regulatory sanctions, safety information that is provided will most likely contain what happened, but not why it happened or no report is submitted.

### **3.2 Existing Solutions**

Existing solutions in GST countries that provide some protection against regulatory sanctions for submitted safety information fall into four categories; Government Acts, Laws, Special Databases and Special Programs. Some example solutions within each category are as follows:

#### **Government Acts**

- The Act which established the Canadian Transportation Accident Investigation and Safety Board (CTAISB) (see reference in Appendix B) known as the TSB Act does not allow the release of witness statements (including the identity of the witness) and cockpit voice recordings to the aviation regulatory authority (i.e., Transport Canada)

#### **Laws**

- In France Article L 722.2 of the Civil Aviation Code (see reference in Appendix B) provides the reporter protection from enforcement after immediate notification except for criminal, repeated, or deliberate acts. Also, OPS1.037 (see reference in Appendix B) provides protection from disciplinary sanction for an incident detected during Flight Data Monitoring (FDM)
- In Japan, Civil Aeronautics Law empowers the Japan Civil Aviation Bureau (JCAB) to order some organizations or persons to report or provide information. However, nonprofit foundations, such as the Association of Air Transport Engineering and Research (ATEC), are excluded from such organizations or persons.

#### **Special Databases**

- The Confidential Human Factors Incident Reporting Programme (CHIRP) is a voluntary United Kingdom reporting system that relies on individual cooperation and trust. After receiving a report and ensuring that the report contains all relevant information, all personal details are deleted and replaced with a unique reference

identification. Further deidentification such as time and place, company, reporter's gender, etc. may be done before sharing with other agencies or publishing.

- Canada's special database SECURITAS is a voluntary confidential reporting program with statutory protection. The TSB regulations prohibit the release of any information that could reasonably be expected to reveal a confidential reporter's identity without the reporter's written authorization.
- Japan's Aviation Safety Information Network (ASI-NET) operated by ATEC provides protection from enforcement, which is substantially secured by making information de-identified and isolated from direct access by the government. Also, as stated above, Civil Aeronautics Law does not legally empower JCAB to request ATEC to provide them with information.
- The FAA's Aviation Safety Reporting System (ASRS) is funded by FAA and operated by the National Aeronautical & Space Administration (NASA) assures the reporter anonymity and except in case of accidents or criminal offenses, reports will not be used by, or made available to the FAA for disciplinary purposes.
- The FAA's Safety Hotline Program provides a toll free telephone number that persons with knowledge of unsafe aviation situations, improper record keeping, or safety violations, can report these incidents without fear of recrimination.

### **Special Programs**

- The FAA's Flight Operational Quality Assurance (FOQA) Program provides protection from enforcement (and public disclosure under Part 193) for airline FOQA programs that are formally approved under the recently enacted FAA FOQA Rule.
- In Australia, for specific programs, CASA can grant immunity from regulatory sanctions (Presently, there are no such programs in operation).

## **4.0 Criminal Proceedings**

The threat of criminal proceedings tends to deter a provider from submitting safety information that may be used against them to pursue criminal fines and/or incarceration. Provided below is an overview of the status of this impediment within GST member countries and existing solutions.

### **4.1 Overview of Status**

In several GST countries (United States, United Kingdom, Japan, and France) there is no protection against criminal proceedings. Almost all GST countries indicated that criminal proceedings seriously deter or eliminate the current environment of open, cooperative participation in accident investigations by interested parties. Accident and

incident investigations are almost sure to be affected by any concurrent criminal investigation. This can make it difficult for an accident investigation or a regulator to assign probable cause(s) to accidents or incidents. Criminal proceedings are an impediment to obtaining more useful information both from mandatory or voluntary reporting systems.

Australia and Canada provide some protection against criminal proceedings depending upon the individual or program to which the information is submitted. In Australia where self-incriminating evidence is obtained by a CASA investigator, section 32AJ of the Civil Aviation Act 1988 (see reference in Appendix B) expressly declares that evidence is inadmissible in criminal proceedings against the person that provided the evidence. Also, the Director of Public Prosecutions may also allow immunity programs (there are none that presently exist) to protect against criminal proceedings. Additionally, section 19HE of the Air Navigation Act (see reference in Appendix B), states that a voice recording made during the flight of an aircraft operated by an Australian operator is not admissible as evidence in any criminal proceedings in an Australian court against a crewmember. In Canada, the CTAISB Act (see reference in Appendix B) provides some protection from criminal proceedings in that witness statements shall not be used against any person who made it in any “legal or other proceedings” except for cases of perjury or other instances of giving false information. Cockpit Voice Recording and air traffic services communications records may not be used in “legal or other proceedings” against those being recorded.

New Zealand indicates that certain categories of information gained by TAIC in the course of an investigation is protected from disclosure, thus not available for use in a criminal proceeding, however investigations undertaken by the CAA do not enjoy the same level of protection. Also, TAIC accident reports are not admissible as evidence in a court, other than a Coroners court.

To provide greater prospective regarding this impediment, it is helpful to look at the testimony of Captain Paul McCarthy, Executive Air Safety Chairman of the Air Line Pilots Association (ALPA) before the U.S. Congressional Aviation Subcommittee on July 27, 2000 regarding The Trend Towards Criminalization of Aircraft Accidents (see reference in Appendix B). Captain McCarthy, concerned about the seemingly growing trend toward criminalization, pointed out that the potential for criminal prosecution injects a significant deterrent into the current environment of openness and cooperation. He further stated that the need to obtain the testimony of those individuals involved in an accident, even if it may disclose errors which are self-incriminating, so that the cause of the accident can be determined, far outweighs any benefit that could be derived from a criminal prosecution. Captain McCarthy concluded his testimony by stating that “What is needed is appropriate legislation, which protects information critical to flight safety, and that such protections can range from precluding any processes or efforts that subvert legitimate accident investigations into criminal prosecutions or investigations, to significantly limiting access to critical flight safety data used in proactive safety programs such as FOQA and ASAP (Aviation Safety Action Program).”

## **4.2 Existing Solutions**

Existing solutions in GST countries that provide some protection against criminal proceedings for submitted safety information fall into five categories; Government Acts, Special Databases, Immunity Programs, CVR Protection and Accident Reports. Some example solutions within each category are as follows:

### **Government Acts**

- The Australian Civil Aviation Act 1988, section 32AJ (see reference in Appendix B) expressly declares, where self-incriminating evidence is obtained by a CASA investigator, that evidence is inadmissible in criminal proceedings against the person that provided the evidence.
- The Act which established the Canadian Transportation Accident Investigation and Safety Board (CTAISB) (see reference in Appendix B) known as the TSB Act in Canada, provides some protection from criminal proceedings. Witness statements shall not be used against any person who made it in any “legal or other proceedings” except for cases of perjury or other instances of giving false information. Also, Cockpit Voice Recordings and air traffic services communications records may not be used in “legal or other proceedings” against those being recorded.

### **Special Databases**

- Japan’s ASI-NET operated by ATEC provides some protection from criminal proceedings, since the information is substantially secured by making it de-identified and isolated from direct access by the government. However, Japan states that it is not clear what judicial authorities are empowered to do in the case of criminal proceedings

### **Immunity Programs**

- Australia’s Director of Public Prosecutions may allow immunity programs that help to protect against criminal proceedings (there are none that presently exist).

### **CVR Protection**

- The Australian Air Navigation Act (see reference in Appendix B), section 19HE, states that a cockpit voice recording made during the flight of an aircraft operated by an Australian operator is not admissible as evidence in any criminal proceedings in an Australian court against a crewmember.

## **Accident Reports**

- New Zealand TAIC accident reports are not admissible as evidence in a court, other than a Coroners court.

## **5.0 Public Disclosure**

The threat of public disclosure raises the concern that information will be disclosed to the public, in the media or otherwise and unfairly used out of context to the disadvantage of the provider. Provided below is an overview of the status of this impediment within GST member countries and existing solutions.

### **5.1 Overview of Status**

All GST countries have some form of protection from public disclosure. In some cases voluntary information is protected and mandatory information is partially protected. In Japan voluntary information submitted to ASI-NET is substantially secured, since ASI-NET is an internal network among air operators, whereas, there is no protection from public disclosure for mandatory reported data except information specified in the Information Disclosure Law (see reference in appendix B). The UK protects both mandatory and voluntary submitted information, but expressed concern about the impact of their soon to be enacted Freedom of Information Act (FOIA) on mandatory data. As far as information that has been supplied by operators to the UK CAA under a legal obligation, the CAA is prohibited from disclosing any of this information relating to a particular person. Only under certain statutory defined conditions is the CAA obliged to disclose any information. They may disclose information to persons who come within one of the categories set out in Regulation 9 of the Civil Aviation Authority Regulations 1991 (see reference in Appendix B). Regulation 9 lists specific categories of persons that are involved in aviation. Failure to do so may subject them to a criminal offense under Section 23 of the Civil Aviation Act 1982 (see reference in Appendix B).

Other countries protect information when it is submitted through a specific program or via certain Acts (U.S., Canada, Australia, France). In the United States, the recently enacted Part 193 Rule (see reference in Appendix B) protects voluntarily submitted information, which is part of an approved FAA program, from public disclosure. In Canada, SECURITAS (see reference in Appendix B), their confidential reporting program, protects submitted information from release, whereas, the TSB Act (see reference in Appendix B) attempts to protect sensitive information such as witness statements, medical information, CVRs and other personal information from release. Also, the Canadian Access to Information and Privacy (ATIP) Acts (see reference in Appendix B) contain exemptions that protect certain types of information that could cause harm if released.

In Australia there is some protection from public disclosure of information under the Commonwealth Freedom of Information Act 1991 (see reference in appendix B), subject



to statutory exemptions. Also, in relation to the disclosure of information by the Australian Transport Safety Bureau (ATSB), sections 19HA and 19HK of the Air Navigation Act 1920 (see reference in Appendix B) provides some protection. Section 19HA in part protects the identity of a person from publication and section 19HK provides Cockpit Voice Recordings some protection from disclosure. Additionally, there are protections in section 19CC, particularly paragraph 9 stating that information provided is not admissible in evidence against the person in a criminal proceeding or in a proceeding for the recovery of a penalty. Furthermore, Australia's Confidential Aviation Incident Reporting (CAIR) Program (see reference in Appendix B) provides a confidential mechanism for reporting events that because of possible unfavorable public reaction would not have been reported otherwise.

In France, a report submitted to the Bureau Enquêtes Accidents (BEA) Recueil d'Événements Confidentiels (REC) (see reference in Appendix B) is given the following guarantees: Confidentiality of the report, deletion of information regarding its source before recording and exploiting the event data and application of Article L 722.2 of the Civil Aviation Code (see reference in Appendix B).

In New Zealand the Official Information Act (see reference in Appendix B) and the Privacy Act (see reference in Appendix B) enable the CAA, in certain circumstances, to protect the confidentiality of information. Unless outweighed by other considerations in the public interest, good reason for withholding information exists where withholding is necessary to:

*Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information –*

- *Would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or*
- *Would be likely otherwise to damage the public interest.*

The New Zealand TAIC has its own special legislation that enables it to protect investigation records.

The impact of not providing some protection from public disclosure discourages open cooperation and makes information providers reluctant to report, reluctant to fully disclose and even to go so far as to distort reported information.

## **5.2 Existing Solutions**

Existing solutions in GST countries that provide some protection against public disclosure for submitted safety information fall into five categories: Government Acts,

Laws, Special Databases, Special Programs and Special Protections. Some example solutions within each category are as follows:

### **Government Acts**

- The Canadian TSB Act (see reference in Appendix B) protects sensitive information such as witness statements, medical information, CVRs and other personal information from public disclosure.
- The Australian Commonwealth Freedom of Information Act 1991 (see reference in Appendix B) provides some protection from public disclosure of information, subject to statutory exemptions.
- The New Zealand Official Information Act 1982, the Privacy Act 1993, and the Transport Accident Investigation Commission Act 1990 (see reference in Appendix B).

### **Laws**

- Japan's Information Disclosure Law (see reference in Appendix B) provides some protection for submitted safety information from public disclosure. The law protects information about a person. It, also, protects information about a corporation under the following conditions: (1) If public disclosure of the information has a possibility of injuring profits. (2) If the information was voluntarily provided with the understanding that it not be disclosed.

### **Special Databases**

- The UK CAA's Mandatory Occurrence Reporting System (MORS) database provides defined protection from public disclosure. The CAA will not disclose the name of the person submitting the report or of a person to whom it relates unless required to do so by law or unless the person concerned authorizes disclosure. Also, it will not be the CAA's policy to institute proceedings with respect to unpremeditated or inadvertent breaches of the law, which come to its attention only because they have been reported under this scheme, except in cases involving dereliction of duty amounting to gross negligence.
- Canada's special database SECURITAS is a voluntary confidential reporting program with statutory protection. The TSB regulations prohibit the release of any information that could reasonably be expected to reveal a confidential reporter's identity without the reporter's written authorization.
- Japan's ASI-NET operated by ATEC provides protection from public disclosure, which is substantially secured by making information de-identified and isolated from direct access by the government. Since ATEC is not a governmental agency, the Information Disclosure Law does not apply.

- A report submitted to France's BEA's REC (see reference in Appendix B) is given the following guarantees which provide some protection from public disclosure: Confidentiality of the report, deletion of information regarding its source before recording and exploiting the event data and application of article L 722.2 (see reference in Appendix B) of the Civil Aviation Code.
- Australia's CAIR Program (see reference in Appendix B).

### **Special Programs**

- The recently enacted Part 193 Rule (see reference in Appendix B) in the United States protects voluntarily submitted safety information in a formally approved FAA program from public disclosure.

## **6.0 Strategies for Reducing Legal Impediments**

Provided below are descriptions of strategies that are being implemented by some GST member organizations for reducing legal impediments to collecting and sharing safety information.

### **6.1 Resolution Adopted by the 33rd Session of the ICAO Assembly**

In October 2001, the 33<sup>rd</sup> Session of the ICAO Assembly adopted a resolution (provided below) regarding the non-disclosure of certain accident and incident records. Among other things it urges Contracting States to examine and if necessary adjust their laws, regulations and policies to protect certain accident and incident records in compliance with paragraph 5.12 of Annex 13. Paragraph 5.12 of Annex 13 urges member states not to make certain records (statements, CVR recordings, etc.) available for purposes other than an accident or incident investigation. The triennial Assembly is an "owners" meeting of all ICAO member States who set the policy and direction for the organization for the next three years. Therefore an Assembly resolution is "a high level policy statement" and call for action. This resolution provides strong worldwide support for reducing all four types of legal impediments (civil litigation, regulatory sanctions, criminal proceedings and public disclosure) to collecting and sharing safety information as discussed in this report.

#### **RESOLUTION ADOPTED BY THE 33RD SESSION OF THE ASSEMBLY OCTOBER 2001**

##### **Non-disclosure of certain accident and incident records**

*Whereas* the primary objective of the Organization continues to be that of ensuring the safety of international civil aviation worldwide;

*Whereas* it is essential that cognizance be taken that it is not the purpose of the investigation of accidents and incidents to apportion blame or liability;

*Recognizing* that it is essential that all relevant information be made available to the accident investigators to facilitate the establishment of the causes of accidents and incidents in order to enable preventative action to be taken;

*Recognizing* that the prevention of accidents is essential to safeguard the continued confidence in air transport;

*Recognizing* that public attention will continue to focus on States' investigative actions, including calls for access to accident and incident records;

*Recognizing* that the protection of certain accident and incident records from inappropriate use is essential to ensure the continued availability of all relevant information to accident investigators in future investigations;

*Recognizing* that the measures taken so far to ensure the protection of certain accident and incident records may not be sufficient, and *noting* that a consideration by ICAO of the legal aspects involved is warranted;

*The Assembly:*

1. *Urges* Contracting States to examine and if necessary adjust their laws, regulations and policies to protect certain accident and incident records in compliance with paragraph 5.12 of Annex 13 (see reference in appendix B), in order to mitigate impediments to accident and incident investigations;
2. *Instructs* the Council to give further consideration to the legal aspects of the subject of protection of certain accident and incident records; and
3. *Instructs* the Secretary General to develop appropriate guidance material related to laws and regulations to protect certain accident and incident records.
4. *Instructs* the Council to further examine the current provisions of Annex 13 with an objective of strengthening those provisions related to the protection of and limiting access to authorized persons and parties to privileged information gathered during accident and incident investigations and in the preparation and publication of accident reports.

## **6.2 Kern/O'Brien Proposal for Collection of Surface Incident Data (United States)**

The strategy given below was proposed by John Kern, former Vice President of Safety at Northwest Airlines (NWA) and John O'Brien, Director of Engineering and Air Safety at

the Airline Pilots Association (ALPA). It is designed to overcome the threat of regulatory sanctions by providing some protections to reporters providing information regarding surface incident data, especially runway incursions.

The FAA collects surface incident data via the agency's official Pilot Deviation (PD), Operational Error (OE), and Vehicle/Pedestrian Deviation (VPD) report forms. These forms are designed to collect information to help the FAA decide if an enforcement action is warranted. Because of this, pilots, controllers, and vehicle drivers are inclined to provide only information about what happened and not why it happened to avoid the possibility of this information being used against them in an enforcement action. For FAA to effectively address and mitigate surface incidents, especially runway incursions, information about why these events are occurring is essential.

The Commercial Aviation Safety Team (CAST) Runway Incursion Joint Safety Analysis Team (RI JSAT) recognized this shortcoming in its analysis of runway incursion data and proposed a systematic, wide-ranging study of runway incursions known as the Kern/O'Brien Proposal. The proposal essentially seeks to gather all parties involved in a runway incursion together where they can be questioned about why the event occurred. In return for providing this information the participants will be given protection from enforcement, except for criminal or deliberate acts. This proposal was forwarded to CAST as a recommendation for immediate action on the part of FAA. CAST adopted this recommendation and forwarded the proposed data collection to FAA. This proposal is currently working its way through the FAA.

Note: This approach could be extended to other types of safety incidents/events.

### **6.3 Possible Amendments to the Aeronautics Act and the Access to Information Act (Canada)**

#### **Legal Impediments to Voluntary Reporting Systems**

The legal factors that make the development and effective operation of a voluntary safety reporting system challenging arise from two sources:

1. A reluctance to voluntarily provide, either directly or indirectly, information to the regulator which may implicate the reporter in a regulatory infraction and result in enforcement action against the reporter; and
2. Reluctance to report information to a government institution when that information could be accessed by a third party for purposes other than advancing aviation safety.

The first issue, reporting to the regulator has been addressed in the United States by granting limited immunity from prosecution to reporters. Limited immunity provides that, except in particular circumstances, the reported may not be subject to enforcement action for an offence that is reported to a voluntary safety reporting system.

Transport Canada is proposing that the Aeronautics Act be amended to allow Transport Canada to grant limited immunity when greater safety benefit is to be generated from granting immunity than prosecuting.

The issue of disclosure of information under Canada's Access to Information and Privacy Act is troublesome. Canadian law requires that information, with some very limited exclusion, must be released if requested. The privacy provisions do protect individuals from being identified, but this protection may not be sufficient to protect an operator from commercial damage. A number of possibilities are being considered by a working group formed to examine and make recommendations on a voluntary non-punitive safety reporting system. Amongst these recommendations would be the consideration of amendments to the Access to Information Act for the purpose of protecting safety information provided to Transport Canada under confidentiality.

## **6.4 Proposal for a European Directive on Incident Reporting**

In December 2000, the European Commission issued its Proposal for a Directive of the European Parliament and of the Council on occurrence reporting in civil aviation. The European Parliament and the Council of the European Union welcomed and supported this initiative providing some amendments and wording changes.

As stated in its Article 1, *the purpose of this Directive is to contribute to the improvement of air safety by ensuring that safety relevant information is reported, collected, stored, protected and disseminated.* This Article specifies further that *the sole objective of occurrence reporting is the prevention of future accidents and incidents and not to attribute blame or liability.*

The Directive requires each Member State to set up a mandatory reporting system and to participate in an exchange of information. In order to facilitate this exchange, the Commission put at the disposal of the Member States the ECCAIRS system which is a collaborative network based on data exchange, focusing on the provision of standard tools for data collection and network infrastructure.

As individual Member States' legislation on transparency and freedom of information varies widely, a number of provisions address the dissemination and the protection of information.

The main principle is that dissemination of information is limited to the national civil aviation authorities and accident investigation bodies. They will have to take the necessary measures to protect the confidentiality of the information received and will restrict the use of this information to improving air safety.

The Commission, assisted by a committee of representatives of the Member States, will decide, on a case by case basis, on access to the information by persons or organisations who may request it for activities related to the improvement of aviation safety. The extent of this information will be limited to what is strictly required for the above mentioned

activities (e.g. date, place, type and registration of the aircraft, etc, will not be supplied unless it is proved essential for its accomplishment).

In addition, provisions to protect personal data and to ensure a non-punitive environment are also included.

This proposal is currently working its way through the adoption process involving the European Parliament and the Council of Ministers.

## **6.5 The Joint Aviation Authorities Voluntary Reporting Policy Statement (European JAA) as Agreed 15 March 2001**

### **Recommendation**

Recognising that the existing accident investigation process and mandatory occurrences reporting systems make an important contribution to the feedback process.

Noting however that they are less successful in gaining information on human factors related aspects.

Recognising the national authorities responsibilities and the existence of different national legal systems.

Considering that the voluntary reporting systems can capture information related to human factors and can be complementary and introduced next to the existing mandatory reporting systems, in order to improve further the effectiveness of existing systems and promote the development of others, whose principal characteristics are: confidentiality, non-punitive culture, database coding and analysis, dissemination, publications.

Considering also that the report of the ICAO AIG'99 meeting recommended that the Member States should establish a voluntary incident reporting system to facilitate the collection of information that may not be captured by a mandatory incident reporting system.

Therefore, the JSSI Steering Group encourages the development by its Member States, taking into account the European Commission initiative<sup>1</sup>, of voluntary reporting systems in addition to any existing mandatory reporting systems. States are thus invited to introduce voluntary reporting systems adopting two fundamental operating principles and their requirement, as described above, confidentiality and a non-punitive attitude towards reporting safety related events in order to promote and maintain aviation safety.

These two principles can only be operated if the system is demonstrably independent from the relevant regulatory agency and operational managements. Various features of a

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<sup>1</sup> *Proposal for a Directive of the European Parliament and of the Council on Occurrence Reporting in Civil Aviation (presented by the Commission)*, 2000/0343 (COD) 19 December 2000.

voluntary reporting system can only be developed by taking account of national legislative and regulatory arrangements and are, therefore, beyond the scope of this Policy Statement.

The development of voluntary systems should not impede operators, manufacturers etc. to adopt voluntary reporting systems providing they have the same characteristics as above (See reference in Appendix B).



## **Appendix A**

### **Information from GST Member Countries on Legal Impediments**

## Civil Litigation

Civil Litigation - Concern that the information will increase exposure to monetary liability in civil accident litigation.

### QUESTION

How does the impediment prevent your government from obtaining more useful information from existing collection systems?

Country	Response To Question	Example(s) of Major Collection Systems Effected by the Impediment	High Level Status of the Impediment
United States	Threat of civil litigation deters a provider from submitting information that may be discoverable in litigation and possibly used against them.	<u>Mandatory</u> NTSB Accident/Incident System, AIDS Incident System	No protection from civil litigation
United Kingdom	UK CAA - The UK has had, for many years, a good safety reporting culture. This could be jeopardized in the future if the information was used inappropriately. However, most reports concern incidents with no monetary liability for civil litigation.	<u>Mandatory</u> CAA Mandatory Occurrence Reporting Scheme (MORS).	No ultimate protection from civil litigation.
France	DGAC: Most reports concern incidents with no monetary liability for civil litigation. As far as accidents are concerned, they are liable to be affected by any concurrent criminal investigation. This can make it difficult for an accident investigation or a regulator to assign probable cause(s) to accidents	<u>Mandatory</u>	No protection from civil litigation
Australia	Is not thought to be a major deterrent at the present time but may become so as Australia becomes more litigious.	Reporting of accidents to ATSB	<b>CASA:</b> No ultimate protection from civil liability, certainly not under CASA legislation. <b>ATSB:</b> Sections 19HC and 19HF of the <i>Air Navigation Act 1920</i> in relation to the disclosure of information by the ATSB.

Canada	Threat of civil litigation deters a provider from submitting information that may be discoverable in litigation and possibly used against them. Providers are reluctant to participate in voluntary systems due to the same issue.	<u>Mandatory</u> CADORS/SDRS/CASR (TC) (CADORS mandatory for NAV CANADA Only)  <u>Mandatory/Voluntary</u> CTAISB (TSB) Act  <u>Voluntary</u> Airports (TC) Web Based (TC)  SECURITAS (TSB)	No protection from civil litigation   Some protection from civil litigation.  No protection from civil litigation  Protection from civil litigation
Japan	No definite impediment is recognized by government in obtaining information	<u>Mandatory</u> Accident reporting system, near mid-air collision/serious incident reporting system	No protection from civil litigation
New Zealand	Litigation is not a big issue yet in New Zealand because we have not had a major test case to date. Operators may be more reluctant to submit information, as they are more likely to be on the receiving end of litigation, as opposed to aircrew, which are more concerned with judicial review of their actions.	Voluntarily supplied information to TAIC for safety investigations.  Mandatory accident and serious incident reporting system.	No protection from litigation based on information released in CAA or TAIC reports.

## Regulatory Sanctions

Regulatory Sanctions – Concern that the information will lead to enforcement proceedings by government regulatory authorities for violations of aviation safety laws and regulations.

### QUESTION

How does the impediment prevent your government from obtaining more useful information from existing collection systems?

Country	Response To Question	Example(s) of Major Collection Systems Effected by the Impediment	High Level Status of the Impediment
United States	<ol style="list-style-type: none"> <li>1. Provider reluctant to report</li> <li>2. Provider reluctant to provide full disclosure</li> <li>3. Incentive for provider to distort information</li> <li>4. Discourages open cooperation</li> </ol>	<u>Mandatory</u> Pilot Deviations, Operational Errors <hr/> <u>Voluntary</u> FOQA FAA Hotline ASRS	No protection from enforcement. <hr/> <u>FOQA Rule</u> Protection from enforcement (except for criminal or deliberate acts) for approved programs.
United Kingdom	<p>UK CAA - The UK has similar problems to those listed above for the United States. Such problems may also apply between the reporter and their employer.</p> <p>CAA can usually obtain a report on 'what' happened, but this does not always tell us 'why' it happened.</p>	<u>Mandatory</u> CAA MORS  <u>Voluntary</u> CHIRP	No ultimate protection from enforcement.  CHIRP - This relies on individual co-operation and trust. It assures non-disclosure to other parties.
France	<p>DGAC: According to the regulation, pilots and operators have to report incidents. In practice, the number of reported technical incidents, mainly linked with airworthiness, is far much higher than the number of reported operational incidents, related to human issues.</p>	<u>Mandatory</u> Incident report Flight Data Monitoring  Tool: ECC-AIRS	Protection from enforcement after immediate notification except for criminal, repeated or deliberate acts (Law 722.2)  Incident detected during FDM: Protection from disciplinary sanction (OPS1.037)

	BEA: It takes time to improve mutual trust between the regulator and provider. This is the reason why the BEA (an independent body) operates the REC system instead of the French CAA (DGAC).	<u>Voluntary</u> BEA REC	REC – Protection from enforcement after immediate notification except for criminal, repeated or deliberate acts (Law 722.2)
Australia	There will always be some reluctance to report incidents etc for fear of enforcement proceedings. <b>CASA's</b> policy is to have an approach to enforcement that is uniform, consistent, fair and appropriate (Corporate Plan). Reporting of violations is encouraged and enforcement tempered so as to foster this approach. <b>ATSB</b> investigations are not permitted (by legislation) to apportion blame or liability.	Reporting of accidents and incidents to ATSB  Voluntary reporting of problems within aviation organisations to CASA	<b>CASA:</b> Other than specific programs for which CASA grants an immunity (there are none at present), there is no protection from regulatory action.  <b>ATSB:</b> may not apportion blame or liability.
Canada	1. Provider reluctant to report 2. Provider reluctant to report on customers	<u>Mandatory</u> CADORS/SDRS/CASR (TC) (CADORS mandatory for NAV CANADA Only)  <u>Mandatory/Voluntary</u> CTAISB (TSB) Act  <u>Voluntary</u> Airports (TC) Web Based (TC)  SECURITAS (TSB)	No protection from enforcement  Information collected by the TSB is not the basis for enforcement action.  No protection from enforcement  Protection from enforcement
Japan	No definite impediment is recognized by government in obtaining information	<u>Mandatory</u> Accident reporting system, near mid-air collision/serious incident reporting system  <u>Voluntary</u> Aviation Safety Information Network operated by ATEC	No protection from enforcement  Protection from enforcement is substantially secured by making information de-identified and isolated from direct access by government

New Zealand	<p>Some reluctance to report where regulatory action may result, but the "Just Culture" approach is emerging as a way of creating an environment that encourages open reporting of errors and mistakes. There is still some work to do in this field though, with many incidents being downplayed when reported so as to not attract a full investigation that may, in the course of determining all contributing factors, identify omissions on the part of the operator and/or aircrew.</p>	<p><u>Mandatory</u>: CAA reporting system (for accidents and serious incidents), which then flows on to TAIC, because TAIC relies on the CAA for its accident notification.</p> <p><u>Voluntary</u>: No such schemes exist. One major operator in NZ is currently trying to set up a FOQA system, but has been unsuccessful due to there being no legislation protecting information collected</p>	<p>Some protection for information received under the mandatory system in that it cannot be used for prosecution action except in special circumstances, such as when false information is supplied or when "the information reveals an act or omission that caused unnecessary danger to any other person or to any property."</p>

## **Criminal Proceedings**

Criminal Proceedings - Concern that the information will be used to pursue criminal fines and/or incarceration.

### **QUESTION**

How does the impediment prevent your government from obtaining more useful information from existing collection systems?

<b>Country</b>	<b>Response To Question</b>	<b>Example(s) of Major Collection Systems Effected by the Impediment</b>	<b>High Level Status of the Impediment</b>
United States	Seriously deters or eliminates the current environment of open, cooperative participation in NTSB accident investigations by interested parties. Therefore, we may not be able to determine the probable cause of an accident.	<u>Mandatory</u> NTSB Accident/Incident System, AIDS Incident System	No protection from criminal proceedings
United Kingdom	All accident and incident investigations are liable to be affected by any concurrent criminal investigation. This can make it difficult for an accident investigation or a regulator to assign probable cause(s) to accidents or incidents.	<u>Mandatory</u> CAA Mandatory Occurrence Reporting Scheme (MORS).	No protection from criminal proceedings
France	All accident investigations are liable to be affected by any concurrent criminal investigation. This can make it difficult for an accident investigation or a regulator to assign probable cause(s) to accidents.	<u>Mandatory</u> BEA Accident Investigation	No protection from criminal proceedings
Australia	See reply above regarding regulatory sanctions.	Reporting of accidents to ATSB  Voluntary reporting of problems within aviation organisations to CASA	<b>CASA:</b> Where self-incriminating evidence is obtained by a CASA investigator, section 32AJ of the <i>Civil Aviation Act 1988</i> expressly declares that evidence inadmissible in criminal proceedings against the person that provided the evidence.

			<p>The Director of Public Prosecutions may also allow immunity programs (there are none at present).</p> <p>Otherwise no protection from prosecution under CASA legislation (but see, for example, section 19HE of the <i>Air Navigation Act 1920</i> in relation to the use of cockpit voice recordings in criminal proceedings);</p> <p><b>ATSB:</b> See preceding</p>
Canada	Seriously affects the gathering of data in all systems	<p><u>Mandatory</u> CADORS/SDRS/CASR (TC) (CADORS mandatory for NAV CANADA Only)</p> <p><u>Mandatory/Voluntary</u> CTAISB (TSB) Act</p> <p><u>Voluntary</u> Airports (TC) Web Based (TC)</p> <p>SECURITAS (TSB)</p>	<p>No protection from criminal proceedings</p> <p>Some protection from criminal proceedings.</p> <p>No protection from criminal proceedings</p> <p>Protection from criminal proceedings</p>
Japan	No definite impediment is recognized by government in obtaining information	<u>Mandatory</u> Accident reporting system, near mid-air collision/serious incident reporting system	No protection from criminal proceedings
New Zealand	Seriously deters the preferred environment of open, cooperative participation by aircrews in TAIC investigations. Recent events in NZ where a pilot was charged with manslaughter by	CAA mandatory reporting scheme.  Protection of CVRs	Certain categories of information gained by TAIC in the course of an investigation is protected from disclosure, but



	<p>the Police has been a backward step in this regard.</p>		<p>investigations undertaken by CAA do not enjoy the same level of protection.</p> <p>TAIC accident reports are not admissible as evidence in a court, other than a Coroners court.</p> <p>There is nothing to stop the Police from conducting its own investigation and laying criminal charges.</p> <p>CVRs may not be used as evidence in criminal proceedings against aircrew.</p>
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## Public Disclosure

Public Disclosure - Concern that the information will be disclosed to the public, in the media or otherwise, and used unfairly, e.g., out of context, to the disadvantage of the provider of the information.

### QUESTION

How does the impediment prevent your government from obtaining more useful information from existing collection systems?

Country	Response To Question	Example(s) of Major Collection Systems Effected by the Impediment	High Level Status of the Impediment
United States	<ol style="list-style-type: none"> <li>1. Provider reluctant to report</li> <li>2. Provider reluctant to provide full disclosure</li> <li>3. Incentive for provider to distort information</li> <li>4. Discourages open cooperation</li> </ol>	<u>Mandatory</u> NTSB Accident/Incident System, Pilot Deviations, Operational Errors.  <hr/> <u>Voluntary</u> ASRS FOQA FAA Hot Line	No protection from Public Disclosure (FOIA).  <hr/> Part 193 Rule protects voluntarily submitted information from public disclosure.
United Kingdom	UK CAA - As far as information that has been supplied by operators to CAA under a legal obligation, CAA is prohibited from disclosing any of this information relating to a particular person. Only under certain statutory defined conditions is CAA obliged to disclose any information.  For CHIRP, 'Feedback' information is made available to the public, but this only relates to generic problems.	<u>Mandatory</u> MORS  <u>Voluntary</u> CHIRP	Defined protection from Public Disclosure. However, a new Freedom of Information Act 2000 may have some impact.  Protected from Public Disclosure.
France	BEA: A report recorded in the REC database only contains relevant safety information. Fields regarding its source are deleted after a systematic feedback with the provider.  Information is made available to the public only to enhance aviation safety.	<u>Voluntary</u> REC	No protection from Public Disclosure. However, the provider is granted the following guaranties: confidentiality of the report, deletion of information regarding its source before recording

			and exploiting the data of the event and application of article L 722.2 of the Civil Aviation Code.
Australia	A commercial operator may not report an incident because of possible unfavorable public reaction. However, this is not generally a consideration for private informants and CAIR reports to the ATSB's confidential program. Australian legislation requires that all accidents, serious incidents and incidents must be reported to the Director of Air Safety Investigation (ATSB)	<p><b>ATSB:</b> Particularly serious incidents and incidents may go unreported despite the legislative requirement.</p> <p><b>CASA:</b> Voluntary reporting of problems to CASA from airlines.</p>	<p>Some protection from disclosure of information under the Commonwealth <i>Freedom of Information Act 1991</i>, subject to statutory exemptions. Also partially protected by answers to the previous questions</p> <p><b>ATSB:</b> See also, for example, sections 19HA and 19HK of the <i>Air Navigation Act 1920</i> in relation to the disclosure of information by the ATSB. Also 19CC in particular para 9.</p>
Canada	Provider reluctant to report	<p><u>Mandatory</u> CADORS/SDRS/CASR (TC) (CADORS mandatory for NAV CANADA Only)</p> <p><u>Mandatory/Voluntary</u> TSB Act</p> <p><u>Voluntary</u> Airports (TC) Web Based (TC)</p> <p>SECURITAS (TSB)</p>	<p>Limited protection from ATI Act</p> <p>Sensitive information such as witness statements, medical information, CVRs and other personal information is protected from release</p> <p>Limited protection from ATI Act.</p> <p>Protection from release of information.</p>
Japan	No definite impediment is recognized by government in obtaining information	<u>Mandatory</u> Accident reporting system, near mid-air collision/serious incident reporting system	No protection from Public Disclosure other than the information specified in the Information Disclosure Law.

		<u>Voluntary</u> Aviation Safety Information Network operated by ATEC	<u>Protection from Public Disclosure is substantially secured as ASI-NET is an internal network among air operators</u>
New Zealand	Not generally a problem in New Zealand specific to aviation.	Reporting to CAA is not affected	The Official Information Act and the Privacy Act enable the CAA, in certain circumstances, to protect the confidentiality of information. TAIC has its own special legislation that enables it to protect investigation records.

## **Appendix B**

### **Documents Pertaining to Legal Impediments**

#### **Australia**

- Freedom of Information Act (FOIA) 1982
- Civil Aviation Safety Authority (CASA) 2001~2002 to 2003~2004 Corporate Plan
- Australian Civil Aviation Act 1988
- Confidential Aviation Incident Reporting (CAIR) Program  
Website: <http://www.atsb.gov.au/atsb>

#### **Canada**

- Transportation Safety Board Act
- Access to Information and Privacy (ATIP) Acts
- SECURITAS  
Website: <http://www.tsb.gc.ca/ENG>

#### **European Commission**

- Directive of the European Parliament and of the Council on Occurrence Reporting in Civil Aviation

#### **European JAA, Joint Aviation Authorities (35 Members)**

- The JAA Voluntary Reporting Policy Statement

#### **France**

- ARTICLE L 722-2
- OPS 1.037
- Presentation of REC (Recueil d'Événements Confidentiels)

#### **ICAO**

- ICAO Resolution, October 2001 (Protection of Records)
- ICAO Annex 13 Chapter 3

#### **Japan**

- Aviation Safety Information Network (ASI-NET) operated by Association of Air Transport Engineering and Research (ATEC)
- Information Disclosure Law

## **New Zealand**

- Transport Accident Investigation Commission Act 1990
- Transport Accident Investigation Commission Act 1999 Amendment 7 New Part 3  
*Website:* <http://rangi.knowledgebasket.co.nz/gpacts/public/text/1999/an/113.html>
- Official Information Act 1982
- Privacy Act 1993
- “Just Culture” Approach (Max Stevens e-mail summary)

## **United Kingdom**

- The Confidential Human Factors Incident Reporting Programme (CHIRP)
- Mandatory Occurrence Reporting System (MORS)
- Freedom of Information Act 2000 (Note - Not yet enacted)
- Civil Aviation Authority Regulations 1991
- Civil Aviation Act 1982

## **United States**

- FAA Aviation Safety Hotline Program
- FAA Aviation Safety Reporting System (ASRS)
- FAA Part 193 Rule, Protection of Voluntarily Submitted Information
- FAA Flight Operational Quality Assurance (FOQA) Program
- The Trend Towards Criminalization of Aircraft Accidents, Captain Paul McCarthy  
*Website:* <http://www.alpa.org/internet/tm/tm072700.htm>

## **Appendix C**

### **List of Acronyms**

AAIB	Air Accidents Investigation Branch
ALPA	Airline Pilots Association
ASI-NET	Aviation Safety Information Network
ASAP	Aviation Safety Action Program
ASRS	Aviation Safety Reporting System
ATEC	Association of Air Transport Engineering and Research
ATIP	Access to Information and Privacy Acts
ATSB	Australian Transport Safety Bureau
BEA	Bureau Enquêtes Accidents
CAA	Civil Aviation Authority/Administration
CADORS	Civil Aviation Daily Occurrence Reporting System
CAIR	Confidential Aviation Incident Reporting Program
CASA	Civil Aviation Safety Authority
CAST	Commercial Aviation Safety Team
CHIRP	Confidential Human Factors Incident Reporting Programme
CTAISB	Canadian Transportation Accident Investigation and Safety Board
CVR	Cockpit Voice Recorder
DGAC	Direction Generale de L'Aviation Civile
EC	European Commission
FAA	Federal Aviation Administration
FDM	Flight Data Monitoring
FOIA	Freedom of Information Act
FOQA	Flight Operational Quality Assurance
GAIN	Global Aviation Information Network
GST	Government Support Team
ICAO	International Civil Aviation Organization
JCAB	Japan Civil Aviation Bureau
JAA	Joint Aviation Authorities
JSSI	Joint Safety Strategy Initiative
MORS	Mandatory Occurrence Reporting System
NASA	National Aeronautics and Space Administration
NORDAIDS	Nordic Accident/Incident Data System
NTSB	National Transportation Safety Board
NWA	Northwest Airlines
NWG	Nordic Working Group
OE	Operational Error

PD	Pilot Deviation
REC	Recueil d'Événements Confidenties
RIJSAT	Runway Incursion Joint Safety Analysis Team
TAIC	Transport Accident Investigation Commission
TC	Transport Canada
TSB	Transportation Safety Board
US	United States
VPD	Vehicle Pedestrian Deviation



